HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 353 of 2001.

PETITIONERS

1. Parwati Bai w/o Ramlal by caste Bhaina (Adivasi) aged 40 (Forty) years, a Panch of Gram Panchayat at village – Chhuiha, Tahsil Bilaigarh, District Raipur
2. Kektibai w/o Dhaniram by Caste Satnami aged 27 (Twenty seven) years, a Panch of Gram Panchayat Chhuiha, Tahsil – Bilaigarh
3. Hembai w/o Tularam Satnami aged 31 (Thirty one) years, a Panch of Gram Panchayat Chhuiha
4. Om Prakash S/o Puniram by caste Satnami aged 48 (Forty eight) years, a Panch of Gram Panchayat Chhuiha
5. Dharamsingh aged 42 years s/o Ramdas Bhaina (Adivasi), a Panch of Gram Panchayat Chhuiha
6. Sobharam s/o Dukhiram Ratre aged 63 (Sixty three) years, an ex-panch of village Gram Panchayat Chhuiha,
7. Purshottamlal s/o Horilal Kewat aged 29 (Twenty nine) years.

   All resident and cultivators permanent address at village – Chhuiha, Tahsil Bilaigarh, District Raipur (Chhattisgarh)

Versus

RESPONDENTS

1. Gram Panchayat Chhuiha
   Through Sarpanch (resident of comperising village Gindola under the Gram Panchayat) by name Sabarsingh Gond, in the Tahsil Bilaigarh District Raipur
2. Chief Executive Officer, Janpad Panchayat Bilaigarh, Tahsil Bilaigarh, District Raipur
3. Sub Division Officer (Magistrate), Bilaigarh, Tahsil Bilairagh, District Raipur
4. Secretary, Gram Panchayat, Bilaigarh, District Raipur
5. Sabar Singh s/o Anandram Gond aged 60 (sixty) years, Sarpanch of Gram Panchayat Chhuiha and resident of comprising village Gindola in the Gram Panchayat Chhuiha Tahsil Bilaigarh, District Raipur
6. The State of Chhattisgarh
   Through Secretary, Revenue Department, Raipur.

Present : Mr. J.R. Verma, learned counsel for the petitioners.

Mr. Sanjay S. Agrawal, learned Govt. Adv., for the State of Chhattisgarh.

Mr. N.K. Shukla, Sr. Adv., with Mr. Shailendra Shukla, learned counsel for respondent No.4.

ORAL ORDER
(Passed on 21ST December, 2005)

The petitioners are the residents and agriculturists of Chhuiha village, Bilaigarh Tahsil, Raipur district. They have filed this writ petition complaining that the first respondent – Gram Panchayat Chhuiha is constructing a Gram Panchayat Bhawan on the public road existing in Khasra Nos. 372, 390/3, 527/2 ad-measuring 1.991 hectare. According to the petitioners, the said land is the community land and the same is reserved for Nistar right of the villagers and as a grazing ground for cattles. It is alleged that such an action is taken by the first respondent – Gram Panchayat at the instance of Gourishankar Agrawal, Ex MLA, and the action was politically motivated one and therefore this Court should step in under Article 226 of the Constitution of India and thwart the attempt of the first respondent.

(2) On service of notice, an application was made by the first respondent – Gram Panchayat dated 07/05/2001. In the said application, it is stated that even before the writ petition was filed, the building was constructed up to plinth level; situs of the building is quite away from the road; the construction is not on the public road as alleged by the petitioners; that one of the petitioners was also a party to the decision taken by the Gram Panchayat to construct Panchayat Bhawan in the land in question. The correctness of these specific averments made in the

application are not denied by the writ petitioners by filing any reply. The facts stated supra would show that the dispute brought before the Court bristles with the disputed facts. It is quite often said and reiterated that this Court in a summary proceeding under Articles 226 and 227 would not be well advised to undertake the resolution of disputed facts for the simple reason that in order to do it, it becomes imperative for the Court to permit the parties to lead evidence, tender witnesses for cross examination by each other etc. Be that as it may, in the instant case, since the specific averments made by the Gram Panchayat in its application noted above are not traversed by the writ petitioners, there is no good ground for me to doubt the integrity of the sworn statements made by the Gram Panchayat in the application. In that view of the matter, I dismiss the writ petition. However, this order shall not preclude the writ petitioners to work out their legal remedies, if they are so advised, before the jurisdictional civil Court in a properly instituted suit. There shall be no order as to costs.

Sd/-
Chief Justice